

MEMORANDUM

TO: County Council

FROM: ~~Michael~~ Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 24-08, Landlord Tenant Relations - Attorney's Fees
– Sunset

Expedited Bill 24-08, Landlord Tenant Relations - Attorney's Fees – Sunset, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on June 10, 2008. A public hearing is tentatively scheduled for July 8 at 1:30 p.m.

As the Executive's memo on ©4 explains, Bill 24-08 would make permanent the provision in the landlord-tenant law governing the payment of attorney's fees in certain landlord-tenant matters.

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Expedited Bill No. 24-08
Concerning: Landlord-Tenant Relations
- Attorney's Fees - Sunset
Revised: 5-22-08 Draft No. 2
Introduced: June 10, 2008
Expires: December 10, 2009
Enacted: _____
Executive: _____
Effective: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) make permanent the provision of the landlord-tenant law governing the payment of attorney's fees in certain landlord-tenant matters; and
- (2) generally amend the landlord-tenant law regarding attorney's fees.

By repealing

Laws of Montgomery County 2005
Chapter 16, Section 3

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 3 of Chapter 16 of the Laws of Montgomery County 2005 is repealed as follows:

[Sec. 3. Expiration. This Act expires on August 1, 2008.]

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

Approved:

Michael J. Knapp, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

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LEGISLATIVE REQUEST REPORT

Expedited Bill 24-08

Chapter 29, Landlord Tenant Relations, of the Montgomery County Code

DESCRIPTION: Makes permanent the provision of Section 29-27(n) regarding the conditions under which attorney's fees can be awarded in a landlord-tenant action.

PROBLEM: Current provision expires on August 1, 2008.

GOALS AND OBJECTIVES: To continue the law in effect.

COORDINATION: Department of Housing and Community Affairs

FISCAL IMPACT: none

ECONOMIC IMPACT: none

EVALUATION: To be requested

EXPERIENCE ELSEWHERE: To be requested

SOURCE OF INFORMATION: Joe Giloley, Chief, Division of Housing and Community Affairs, 240-777-3654

APPLICATION WITHIN MUNICIPALITIES: to be researched

PENALTIES: Any violation of this Chapter is a Class A violation. County Attorney may seek injunctive or other appropriate relief to enforce this Chapter.




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

May 15, 2008

TO: Michael J. Knapp, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Reenactment of Chapter 29, Landlord-Tenant Relations
Section 29-27(n), Attorney's Fees

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MONTGOMERY COUNTY
COUNCIL

The purpose of this memorandum is to transmit to the County Council, for introduction, legislation to reenact, without a sunset provision, Section 29-27(n) of the Montgomery County Code, regarding the assessment of legal fees in landlord-tenant cases.

In April 2001, as part of the overall rewrite of Chapter 29, Landlord-Tenant Relations, the prohibition against lease provisions that required tenants to pay legal and court costs was eliminated and replaced by language that permitted the assessment of legal fees and court costs under certain specified conditions. These conditions, currently found in Section 29-27(n) of the County Code, include the following:

- lease provisions cannot require a tenant to pay court costs that exceed actual costs awarded by a court;
- lease provisions cannot require a tenant to pay legal costs or attorney's fees other than those awarded by a court and deemed to be reasonable by the court;
- lease provisions obligating a tenant to pay a landlord's attorney's fees must provide that attorney's fees are not part of a tenant's rent and cannot be collected in an action for nonpayment of rent; and
- lease provisions obligating a tenant to pay a landlord's attorney's fees must also obligate the landlord to pay the tenant's attorney's fees if the tenant is the prevailing party in the legal action.

These amendments permitting the assessment of legal fees under certain conditions were enacted for an initial two-year period which expired on April 1, 2003. These amendments were reenacted for an additional two-year period which expired on April 1, 2005, and thereafter reenacted for an additional three-year period which expires on August 1, 2008.

Michael J. Knapp, President
May 15, 2008
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The Department of Housing and Community Affairs has reviewed the manner in which both the District Court and landlords were implementing these new provisions. It has been the Department's experience that the current language in Section 29-27(n) regarding legal fees and court costs has worked as intended, and that they should be made a permanent part of Chapter 29, Landlord-Tenant Relations.

I look forward to working with you on this request.

IL:sns

Attachments